

Sales and Use Tax Voluntary Disclosure

Companies and tax practitioners frequently contact the Business Tax Division of the Ohio Department of Taxation regarding unpaid sales and use tax liabilities and ask if the company can voluntarily come forward to resolve the liabilities without incurring penalties. The department is committed to promoting taxpayer compliance. In an effort to accomplish this objective, a voluntary disclosure agreement (VDA) is available to taxpayers who voluntarily come forward in order to comply with Ohio's tax laws. Companies are eligible for voluntary disclosure if they submit a written voluntary disclosure request to the division prior to any contact from the Department, including audit, compliance, or criminal investigation programs.

Am I Eligible for Voluntary Disclosure If I Have No Past Tax Liability?

No. If the company has no sales or use tax liability for prior periods, the division will not enter into a voluntary disclosure agreement. If in the future the company is required to collect and remit sales tax or incurs use tax liability, the company must register with the department at that time.

Am I Required to Pay Tax for Past Periods?

If tax has been collected from customers but not remitted, there is no limitation to the lookback period. All tax collected must be paid. Tax collected, but not remitted, is subject to a 10% penalty. If the company should have collected tax on its Ohio sales but did not, or if Ohio tax is due on purchases, generally the tax and interest must be paid for the 36 months prior to submission of the voluntary disclosure request. However, the lookback period may vary depending upon the date when the company began nexus-creating activities in Ohio or began making untaxed purchases in Ohio.

What Are the Advantages of Voluntary Disclosure?

In exchange for the company entering into voluntary disclosure, the division will agree to:

- Waive civil and criminal penalties (except for tax collected, but not remitted).
- Limit liabilities for sales and use tax to the voluntary disclosure period (except for sales tax collected, but not remitted).¹
- Not disclose the company's identity to other parties.²

¹ This limitation does not apply to amounts assessed prior to the date the taxpayer requests the voluntary disclosure.

² The department may be required to disclose information regarding the company pursuant to its information sharing agreement with other states, the federal government and Canada, or as otherwise provided by law. Ohio Rev. Code 5703.21 and 5703.40.

- Allow the company to remain anonymous, if desired, until the signed agreement is returned.

The department reserves the right to examine records for the disclosure period. The department also reserves the right to void the agreement if the taxpayer fails to comply with the requirements of the voluntary disclosure program.

How Do I Request Voluntary Disclosure?

To initiate a voluntary disclosure, the company or tax practitioner must complete a Request for Sales and Use Tax Voluntary Disclosure, Ohio form ST VDA. The form is available on the department's Web site at tax.ohio.gov. The request can be submitted to the division via U.S. mail or via e-mail at SalesVDA@tax.state.oh.us. Upon receipt of the request, the division will assign a voluntary disclosure file number for tracking purposes. The division will also send the company or tax practitioner the voluntary disclosure agreement and a letter with instructions on how to complete the voluntary disclosure process. At this point, any audit action by the Audit Division is deferred until the voluntary disclosure process is complete or terminated. If the voluntary disclosure process is terminated without an agreement, the Audit Division may initiate audit contact.

How Do I Complete the Voluntary Disclosure Process?

A company must, within 60 days from receipt of the voluntary disclosure agreement, do the following to complete the voluntary disclosure process:

- Complete, sign and return the voluntary disclosure agreement.
- Register with the department via the Ohio Business Gateway at business.ohio.gov and begin complying with the Ohio sales and use tax law beginning on the day following the last day of the disclosure period.
- Submit this [spreadsheet](#) showing the Ohio sales and use tax due by county, by period.
- Send a check for the total amount of tax due.

Once the division has reviewed the documentation provided and verified there has been no prior contact by the department, a signed copy of the agreement will be returned.

Any questions should be directed to the division at:

Ohio Department of Taxation
Business Tax Division
P.O. Box 530
Columbus, OH 43216-0530
OR

E-mail: SalesVDA@tax.state.oh.us